

Zoning Board of Appeals

February 6, 2014

The Hall, 2<sup>nd</sup> Floor, Memorial Hall Library, 2 North Main Street, Andover

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Present were: Brown (Chair); Oltman (Acting Clerk); Bargnesi, Member; Oltman, Bordonaro and Wilson (Associate Members). [McDonough arrived at 7:05 p.m.]

The meeting opened at 6:45 p.m. Brown gave an overview of the process and announced that due to a lack of a quorum, the continued case, Z-13-111, for 15 County Road will be continued to March 6, 2014.

Associate Member Tara Wilson disclosed that she has hired Andover Consultants for a personal project, the same engineer listed for cases Z-13-115 & Z-13-109 & Z-13-121. She feels that she can act impartially on these cases. No one objected to her participation.

Bargnesi then made a motion to approve the minutes of 1-9-14. Oltman seconded the motion & the Board voted (5-0) [Brown, Bargnesi, Oltman, Wilson, Bordonaro] to approve the minutes of 1-9-14.

Brown updated the Board on the Comp Permit / HAC case at 30 Shattuck Road (Hanover).

Petition No.: Z-13-114

Premises affected: 209 N. Main St.

Petitioner: Guo

Members: Brown (Chair), Oltman (Acting Clerk), Bargnesi, Bordonaro and Wilson

Attorney Brian Burke, Esquire, of Littleton, MA represented petitioner, Iverson Guo, restaurant owner / tenant at 209 N. Main St. They are requesting a modification of Decision No. 4033, specifically deleting condition #3 that prohibited live entertainment. The entertainment will be inside the building on a small corner stage. It will include dancing for private, special functions, as well as live music. Brown read Assistant Town Clerk Kathy McKenna's memo summarizing the requirements for live entertainment in town. Brown also noted that Decision No. 4033 did not mention the requested special permit for temporary & seasonal outdoor seating under section 3.1.3.F.8 in the findings and that he incorporated it into the draft for the current application. There were no further questions from the public or board. Oltman made a motion to waive the site view and close the public hearing. Bordonaro seconded the motion and the Board voted (5-0) to waive the site view & close the public hearing. The Board then proceeded to deliberate. Brown noted that he will edit the 4<sup>th</sup> paragraph to reflect tonight's proceedings. Bordonaro made a motion to approve the amended draft approval. Wilson seconded the motion & the Board voted (5-0) to approve the requested modification as amended tonight.

[Member McDonough arrived at 7:05 p.m.]

Petition No.: Z-14-8

Premises affected: 6 Avella Circle

Petitioner: Lisuwandi

Members: Brown, McDonough, Bargnesi, Oltman, Bordonaro, and Wilson

Mr. Iko Lisuwandi represented himself in his request for a special permit under Art. VIII, Section 3.1.3.F.4 for a family dwelling unit to be occupied by his mother. The unit will be completely within the existing single family dwelling; it is located in the walk-out basement and includes a bedroom, bathroom and small kitchen. No additions are proposed. Brown explained that such special permits are granted for a 5-year period, specific to the individual named in the application and it will expire at the end of 5 years or when it is no longer needed. If it is needed beyond the 5-year period, it must be renewed prior to its expiration. The unit is accessed by an exterior entrance as well as access from

inside the house. Brown added that a condition of approval is the removal of the kitchen at the termination of use. Oltman made a motion to waive the site view & close the public hearing. Bordonaro seconded the motion & the Board voted (5-0) to waive the site view & close the hearing. The board then proceeded to deliberate. Bordonaro made a motion to grant the special permit with the usual conditions as enumerated tonight. Oltman seconded the motion & the Board voted (5-0) to grant the special permit with conditions. Oltman will write the decision.

Petition No.: 4063 / Z-13-113

Premises affected: 48 Summer Street

Petitioner: Jeffco

Members: Brown, McDonough, Bargnesi, Oltman

Brown noted for the record that the public hearing was closed last month & that a decision was drafted. This meeting is for deliberation purposes only. Attorney Johnson agreed to proceed with a 4-member board by email earlier in the day. Brown summarized the relief requested: 1. Party Aggrieved – McDonough made a motion to uphold the Inspector of Buildings' denial of a building permit. Oltman seconded the motion the Board voted (4-0) to uphold the inspector. 2. Variance from Art. VIII, 5.1.13.1 (parking requirements) Bargnesi made a motion to grant the request to withdraw the request for the variance. Oltman seconded the motion & the Board voted (4-0) to grant the request to withdraw the requested variance. 3. McDonough made a motion to grant the special permits under Art. VIII, Sections 3.3.5 & 3.3.7 to allow the construction of a new 2-family dwelling subject to conditions. Oltman seconded the motion & the Board voted (4-0) to grant the special permits with conditions. 4. Oltman made a motion to deny the requested special permit under Art. VIII, Section 3.3.2 for the 2-family use, with a finding that the 2<sup>nd</sup> unit was not in existence prior to the bylaw & therefore is not a pre-existing non-conforming use. Bargnesi seconded the motion & the Board voted (4-0). 5. McDonough made a motion to modify the special permit Decision #802 that allowed the conversion of the existing structure to a multifamily use and find that the special permit as written applies to the structure itself, and that the decision did not address 'for the duration' of the structure and to grant the modification of Decision No. 802 adding that it runs with the land, not the structure. Oltman seconded the motion & the Board voted (4-0) to grant the modification. Brown will write the decision.

Petition No.: Z-13-115

Premises affected: 81 Bellevue Rd

Petitioner: C + L Homes

Members: Brown, McDonough, Oltman, Bordonaro, and Wilson

Attorney Andrew Caffrey, Jr., of 1 Elm Square, Andover, represented the petitioner. He noted that the Board had granted a variance from Section 4.1.2 in Decision No. 4015 to raze the existing single family dwelling & construct a new one. The current request is identical, plus an attached one-stall garage. It is in keeping with the neighborhood and has Conservation Commission approval. It is the same plan as recorded with the Order of Conditions of July 2013. The space above the garage may be used for storage, but not living area. Brown noted that the existing house conforms to the side setback of 30', but the proposed will not. Caffrey pointed out the extensive wetlands on the lot that restrict buildable area. Neither the board nor the public had any further questions. Oltman made a motion to waive the site view & close the public hearing. McDonough seconded the motion & the Board voted unanimously to waive the view & close the hearing.

The Board proceeded to deliberate. Brown suggested granting relief by modifying the prior decision. Oltman added that a variance for the side setback is necessary. Brown stated that the hardship is related to the 50' "do not disturb" zone & the location of the septic system. McDonough made a motion to reaffirm the findings in Decision No. 4015 & to

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grant the request to modify it, as well as grant a variance to allow the front & side setback encroachment on the right side. Oltman seconded the motion and the Board voted unanimously to grant the modification & variance. Wilson will write the decision.

In addition to the written application, the following documents were received by the Board and considered at the public hearing:

- "Site Development Permit Plan" prepared by Eastern Land Survey Associates, Inc., dated January 25, 2013 and Revised on April 29, 2013 and May 17, 2013.
- Floor plans and exterior elevations, 5 pages prepared by First Step Designs, House Plan Number CL-286GR/13712 dated July 31, 2013.
- WPA Form 5 – Order of Conditions, MassDEP File #090-1181, issued by the Andover Conservation Commission on June 30, 2013.
- Print of Town of Andover GIS Map showing subject & surrounding properties, including photograph of existing house on the premises.
- Copy of Decision No. 4015, as filed on March 4, 2013.

Petition No.: Z-13-121

Premises affected: 279 Salem Street

Petitioner: Patch

Members: Brown, McDonough, Oltman, Bordonaro, and Wilson

Gary Patch, of Patch Development, 8 Christian Way, Andover, MA represented himself in his request for a variance from the requirements of Art. VIII, §4.1.2 &/or a special permit under Art. VIII, §3.3.5 &/or §3.3.7 to raze an existing single family dwelling and construct a new one on a lot that lacks the minimum area required. The lot has 40,723 sq. ft. while 43,560 sq. ft. are required in the SRC zoning district. He informed the Board that the lot was subdivided prior to zoning, the house being built in 1930 and the new house will be less non-conforming than the existing with an increased front back from 45' to 60'. It will meet all other setbacks as well. He has met with Conservation Commission and received verbal approval pending some changes to wetland flag delineations, but the construction is still more than 50' from the wetlands. Brown asked for a title block to be included on the plans for reference in the decision. Patch agreed to provide revised plans to the Board including the title block. McDonough made a motion to waive the site view & close the public hearing. Oltman seconded the motion & the Board voted (5-0) to waive the view & close the hearing.

The Board then proceeded to deliberate. Wilson noted that since it conforms to all setbacks & has conservation approval, she has no issue with the proposal. Bordonaro & McDonough agreed. McDonough feels it is a reasonably sized lot despite its deficiency in lot area. Oltman made a motion to find that the proposed house is not substantially more detrimental to the neighborhood and that a special permit under 3.3.5 can be granted with conditions that the house be constructed in substantial conformity with the plot plan and plans submitted. Wilson seconded the motion & the Board voted (5-0) to grant the special permit under 3.3.5 with conditions. Bordonaro will write the decision.

In addition to the written application, the following documents were received by the Board and considered at the public hearing:

- Plot plan entitled "Plan showing Proposed Subsurface Sewage Disposal System", Sheet 1 of 2, prepared by Andover Consultants, Inc., dated 12/16/13.
- Sketch floor plans and elevation drawings of the proposed dwelling.

Petition No.: Z-14-7

Premises affected: 15 Bancroft Rd

Petitioner: Town of Andover

Members: Brown, McDonough, Oltman, Bordonaro, and Wilson

Landscape Architect Peter Lekacic represented the Town's request to install two free-standing signs, one at each entrance to the school on West Knoll Rd and Bancroft Rd, both of which will exceed the maximum allowed area & height. The request is for a variance from the requirements of Art. VIII, §5.2.8.B &/or for a special permit under Art. VIII, §5.2.8.B. The sign at Bancroft Rd will be 2-sided, 18 sq. ft. measuring 3'x6' perpendicular to the road. The sign on West Knoll Rd. is only 1-sided setback 20' measuring 18 sq. ft. also. There will be no Town seal on the signs as depicted in one of the samples of other school signs. The lettering will be the same size however. The Board discussed plans SP-2 & SP-3 depicting the location of the signs. Lekacic explained that the intent is to install them as close as possibly in the location on the plan. The signs will not be illuminated. Tom Williams, 133 Holt Rd., expressed concern with the size & location of the signs because they will obstruct the view from the back of his lot. He suggested placing one sign nearer to the school. It is a large building in a residential neighborhood that is easily identified from the road. Lekacic stated that the sign on West Knoll Rd would not be very visible from Holt Rd due to the vegetation. Brown suggested that the West Knoll sign could be smaller. McDonough asked about the Wood Hill & High Plain school signs. Lekacic agreed to ask the Building Committee to reduce the W. Knoll sign. He noted that federal guidelines regulate the size of signs in relation to the speed of traffic in order to ensure safe reaction. Ed Ataide, of Andover Plant & Facilities, informed the Board that Andover Police Traffic Safety did approve the signs. Tom Boshar, 159 Holt Rd., spoke against the size & location of the signs voicing the same as Mr. Williams. The Board discussed the option of a directional sign on S. Main St. Lekacic will look into it again. Lucy Vaill, 9 Bancroft Rd., commented that the perpendicular sign is favorable asking if any trees will be removed. Lekacic stated that none will be removed, but some will be added. Brown asked the Board if the sense is to continue to 3-6-14 in order to reconsider the size & height of the signs. Lekacic agreed to submit revised plans if the Building Committee agrees to the changes. Oltman made a motion to continue the hearing to 3-6-14. McDonough seconded the motion and the Board voted (5-0) to continue the hearing to 3-6-14.

In addition to the written application, the following documents were received by the Board and considered at the public hearing:

- "Existing Conditions Plan" prepared by Symmes, Maini & McKee Associates, page C1.01, revision dated 7/27/2012.
- "Site Sign Locus Plan" set prepared by Symmes, Maini & McKee Associates, pages SP-1 through SP-6, dated 12/19/2013.

Petition No.: Z-13-109

Premises affected: 76 Haverhill Street

Petitioner: Anne Marie & Associates

Members: Brown, McDonough, Oltman, and Wilson

Bill Buck, Manager of Anne Marie & Associates, represented himself. Brown informed Buck that Member Magenheim is not present & that he can proceed with 4-members, requiring a super-majority to approve the project. Buck stated that he understood & agreed to proceed with a 4-member Board. He showed the Board the revised plot plan and gave an overview of the existing house compared to the proposed house: 1700 sf v. 2400 sf. The proposed setback is 31' from Liberty Street & now relief is required for the rear setback. Buck submitted photos of the existing house. Brown noted that the front setback is 35', which could be met if the house was pushed back or rotated parallel to Liberty Street. Then only the rear setback would not be met, opposite Liberty St., the westerly lot line could be considered side setback

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considering Haverhill Street as the frontage. Chuck Rigoli, 5 Carlisle St., rear abutter, spoke in opposition stating that the bigger, new house will be obtrusive. He noted that a 2200 sf dwelling would be more reasonable. John Hess, 5 Liberty St., asked about the setback from Liberty Street. Buck explained the lot is skewed and wider at Carlisle St. and the proposed house can be built closer to that end of the lot. Brown asked for a revised plan showing the new location of the proposed house for the 3-6-14 meeting. He noted that the only defect is the lack of lot area and the new plan will depict the house meeting the setbacks, including the 20' on the side. Oltman made a motion to continue the hearing to 3-6-14. McDonough seconded the motion and the Board voted (4-0) to continue to 3-6-14.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- Certified plot plan entitled "Plan of lot, 76 Haverhill Street, Andover, Mass.," prepared by Andover Consultants, Inc. and dated December 4, 2013.
- Certified plot plan entitled "Plan of lot, 76 Haverhill Street, Andover, Mass.," prepared by Andover Consultants, Inc. and dated January 28, 2014.
- Floor plans & elevation drawings entitled, "Proposed Dwelling, Liberty Street, Andover, MA," Pages 1-4, prepared by GWI Design Build and dated 6-17-2012.
- Floor plans & elevation drawings entitled, "Anne Marie & Associates, LLC, Liberty Street, Andover, MA 01810," (5 pages), dated 1-20-2014 and revised 1-26-14.

Petition No.: Z-13-111

Premises affected: 15 County Street

Petitioner: South Andover Development

Members: Brown, McDonough, Oltman, Bordonaro, and Wilson

Attorney Kathryn Morin requested that the hearing be continued to 3-6-14 in order for the full Board to be present. McDonough made a motion to continue the hearing to 3-6-14. Oltman seconded the motion & the Board voted (5-0) to continue the hearing to 3-6-14.

There being no other business before the Board, Oltman made a motion to adjourn the meeting. Wilson seconded the motion and the Board voted (5-0) to adjourn the meeting. The meeting adjourned at 8:49 p.m.